

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANTHONY OVEIDE,

Plaintiff,

v.

No. 20-cv-0976 RB-SMV

CENTRAL NEW MEXICO CORRECTIONAL FACILITY,

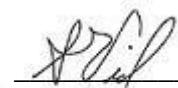
Defendant.

ORDER EXTENDING PAYMENT DEADLINE

THIS MATTER is before the Court on Plaintiff Anthony Oveide's response regarding the initial partial filing fee [Doc. 7], filed on November 30, 2020. Plaintiff is incarcerated and proceeding pro se in this civil rights action pro se. Pursuant to 28 U.S.C. § 1915(b)(1), the Court previously directed Plaintiff to pay \$23.20 by December 11, 2020. [Doc. 5]. Plaintiff responded that his average monthly deposits were inflated by a \$200 gift from his grandmother and that he is saving his money to purchase a sweat suit from the prison commissary. [Doc. 7]. The *in forma pauperis* statute requires the Court to consider all transactions "for the 6-month period immediately preceding the filing of the complaint" and cannot disregard the \$200 gift. 28 U.S.C. § 1915(b)(1)(B). The Tenth Circuit has also held that "[w]hen a prisoner has sufficient income to pay a monthly partial filing fee and instead spends his money on amenities at the prison canteen, he cannot be excused for failing to make the required partial payments." *Cosby v. Meadors*, 351 F.3d 1324, 1327 (10th Cir. 2003). Accordingly, the Court declines to waive the initial partial payment but will extend the payment deadline through **January 11, 2021**.

IT IS ORDERED, ADJUDGED, AND DECREED that Plaintiff's Response [Doc. 7] requesting a waiver of the initial partial payment be **DENIED**; but the deadline for Plaintiff to make his \$23.20 partial payment is extended through **January 11, 2021**.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge